

AMENDED IN ASSEMBLY AUGUST 27, 1997

AMENDED IN SENATE MAY 14, 1997

AMENDED IN SENATE APRIL 14, 1997

SENATE BILL

No. 1161

Introduced by Senator Costa

February 28, 1997

An act to amend Sections 12021, 12103, 12104, 12112, 12201, 12252, 12784, 12843, 12845, 12846, 12931, 12991, 12999.4, and 14152, and the heading of Chapter 7 (commencing with Section 12101) of Division 6 of, to amend and renumber Sections 12115.3, 12115.5, and 12115.6 of, to add Chapter 10 (commencing with Section 12400) to Division 6 of, to repeal Sections 12115, 12115.1, 12115.2, 12115.4, 12932, and 12971.5 of, the heading of Article 1.5 (commencing with Section 12115) of Chapter 7 of Division 6 of, and Article 4.6 (commencing with Section 12848) of Chapter 2 of Division 7 of, to repeal and add Sections 12841, 12842, 12844, and 12847 of, and to repeal, add, and repeal Section 12841.1 of, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Costa. Pesticide mill assessment.

(1) Until June 30, 1997, existing law requires every registrant of a pesticide product to pay to the Director of Pesticide Regulation an assessment of 22 mills per dollar of sales for all sales by that person of registered pesticides for use in this state. Under existing law, that assessment consists of 9 mills per dollar of sales that is in effect indefinitely, and an

additional 13 mills per dollar of sales that is in effect until June 30, 1997. After July 1, 1997, the assessment will be lowered to 9 mills per dollar of sales.

This bill would ~~authorize the director, between January 1, 1998, and January 1, 2003, to set the mill assessment at an amount not less than 9~~ 15.15 mills *from January 1, 1998, to March 31, 1999, inclusive*, and ~~not to exceed~~ at 17.5 mills *from April 1, 1999, to January 1, 2003, inclusive*, per dollar of sales for all sales of pesticides for use in this state, and during that same period of time, ~~to collect~~ *permit the collection of* up to an additional $\frac{3}{4}$ mill if necessary to fund certain duties of the Department of Food and Agriculture. ~~After Commencing~~ January 1, 2003, the mill assessment rate would be reduced to 9 mills per dollar of sales for all sales of pesticides for use in this state. The bill would require the distribution of specified amounts from those funds to the counties as reimbursement for their costs in carrying out and enforcing certain duties relating to the use of pesticides. The bill would also require the director and the county agricultural commissioners to jointly develop regulations specifying the criteria to be used in allocating pesticide mill assessment funds to the counties based upon each county's pest control activities, costs, workload, and performance, thereby imposing a state-mandated local program.

(2) Existing law provides for the licensing of pesticide brokers.

This bill would revise and recast those provisions.

(3) Existing law requires the director to take samples of pesticides, make analyses or examinations of them, and make such investigations as are necessary for the full enforcement of the laws relating to pesticides.

This bill would permit, rather than require, the director to do so.

(4) Existing law requires the director, at least annually, to print and distribute the results of examinations or chemical analyses of official samples of pesticides that are taken by the director.

This bill would repeal that provision.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs

mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12021 of the Food and
2 Agricultural Code is amended to read:
3 12021. An application for an agricultural pest control
4 adviser license shall be in the form prescribed by the
5 director. Each application shall state the name and
6 address of the applicant specified on the application and
7 any other information required by the director. The
8 application shall be accompanied by a fee of fifty dollars
9 (\$50) to be paid into the State Treasury to the credit of
10 the Department of Pesticide Regulation Fund. All
11 licenses issued under this article shall expire on
12 December 31 of the year for which they are issued.
13 Licenses may be renewed annually by the date of
14 expiration through application in the form prescribed by
15 the director and upon payment of a fee of forty dollars
16 (\$40). A penalty of ten dollars (\$10) shall be assessed
17 against any applicant who applies for a renewal of the
18 license after the expiration date.
19 SEC. 2. The heading of Chapter 7 (commencing with
20 Section 12101) of Division 6 of the Food and Agricultural
21 Code is amended to read:
22

CHAPTER 7. PEST CONTROL DEALER

SEC. 3. Section 12103 of the Food and Agricultural Code is amended to read:

12103. An application for a license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee of one hundred dollars (\$100) to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued.

To the amount of the license fee shall be added, as an additional license fee, fifty dollars (\$50) for each branch salesyard, store, or sales location that is owned and operated by the applicant in the state or in other states when doing business from that location within the state.

SEC. 4. Section 12104 of the Food and Agricultural Code is amended to read:

12104. The license for a pest control dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee of one hundred dollars (\$100), for each license and fifty dollars (\$50) for each branch salesyard, store, or sales location by the date of expiration. These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

SEC. 5. Section 12112 of the Food and Agricultural Code is amended to read:

12112. Notwithstanding Section 11513, 50 percent of the moneys derived under this chapter shall be available to the director to cover the costs of establishing and administering the pest control dealer's licensing program pursuant to this chapter. The director shall pay 50 percent of the moneys collected to the counties that employ commissioners and the moneys shall be used by the counties for the enforcement and administration of this chapter. The department shall determine and pay to each

1 county one-half of the deposited application fees and
2 renewal fees that are received from applicants whose
3 principal address at the time of payment, as determined
4 by the director, was located in the county, and the
5 amount of the payments to counties is hereby
6 appropriated from the Department of Pesticide
7 Regulation Fund.

8 SEC. 6. The heading of Article 1.5 (commencing with
9 Section 12115) of Chapter 7 of Division 6 of the Food and
10 Agricultural Code is repealed.

11 SEC. 7. Section 12115 of the Food and Agricultural
12 Code is repealed.

13 SEC. 8. Section 12115.1 of the Food and Agricultural
14 Code is repealed.

15 SEC. 9. Section 12115.2 of the Food and Agricultural
16 Code is repealed.

17 SEC. 10. Section 12115.3 of the Food and Agricultural
18 Code is amended and renumbered to read:

19 12114. (a) Each licensed pest control dealer, and
20 each person who is required to be licensed as a pest
21 control dealer pursuant to Section 12101, shall maintain
22 at his or her principal place of business the records of its
23 purchases, sales, and distributions of pesticides into or
24 within this state, including those of its branch locations,
25 for four years. Each dealer shall also maintain the
26 pesticide broker license number of any pesticide broker
27 from whom the dealer purchased pesticides registered by
28 the director and labeled for agricultural use. The records
29 shall be available for audit by the director.

30 (b) Each licensed pest control dealer, and each person
31 who is required to be licensed as a pest control dealer
32 pursuant to Section 12101, shall report quarterly to the
33 director the the total dollars of sales and total pounds or
34 gallons sold into or within this state of each pesticide
35 labeled for agricultural use, for all sales subject to Sections
36 12841 and 12841.1. The quarterly report shall be in the
37 form prescribed by the director and shall include
38 information from the dealer's licensed branch locations,
39 if any, and any other information specified on the form or
40 required by the director. The report shall include a

1 certification, under penalty of perjury, that the
2 information contained in the report is true and correct.
3 The report shall accompany payment of assessments
4 required by Sections 12841 and 12841.1.

5 SEC. 11. Section 12115.4 of the Food and Agricultural
6 Code is repealed.

7 SEC. 12. Section 12115.5 of the Food and Agricultural
8 Code is amended and renumbered to read:

9 12115. Any licensed pest control dealer, or any person
10 who is required to be licensed as a pest control dealer
11 pursuant to Section 12101, who purchases pesticide
12 products that are registered by the director pursuant to
13 Chapter 2 (commencing with Section 12751) of Division
14 7 and labeled for agricultural use from a person other than
15 a registrant or a licensed pest control dealer, shall report
16 in writing the name, address, telephone number, and
17 pesticide broker license number issued by the director, if
18 any, of those persons to the director annually, by
19 December 1 each year.

20 SEC. 13. Section 12115.6 of the Food and Agricultural
21 Code is amended and renumbered to read:

22 12116. It is unlawful for a licensed pest control dealer
23 to purchase for sale in this state a pesticide that is labeled
24 for agricultural use except from a registrant, a pest
25 control dealer licensed pursuant to Section 12107, or a
26 pesticide broker licensed pursuant to Section 12402.

27 SEC. 14. Section 12201 of the Food and Agricultural
28 Code is amended to read:

29 12201. An application for a qualified applicator
30 license shall be in a form prescribed by the director. Each
31 application shall state the name and address of the
32 applicant specified on the application and any other
33 information required by the director. The application
34 shall be accompanied by a fee of forty dollars (\$40). These
35 fees shall be paid into the State Treasury to the credit of
36 the Department of Pesticide Regulation Fund.

37 SEC. 15. Section 12252 of the Food and Agricultural
38 Code is amended to read:

39 12252. (a) An application for a pest control dealer
40 designated agent license shall be in the form prescribed



1 by the director. Each application shall state the name and
2 address of the applicant specified on the application and
3 any other information required by the director. The
4 application shall be accompanied by a fee of fifteen
5 dollars (\$15). These fees shall be paid into the State
6 Treasury to the credit of the Department of Pesticide
7 Regulation Fund.

8 (b) All licenses issued pursuant to this article shall
9 expire on December 31 of the year for which they are
10 issued.

11 (c) Licenses may be renewed annually upon
12 application in the form prescribed by the director and
13 upon payment of a fee of fifteen dollars (\$15). A penalty
14 of ten dollars (\$10) shall be added to any license renewal
15 fee that is not paid by the date of expiration of the
16 previously issued license.

17 SEC. 16. Chapter 10 (commencing with Section
18 12400) is added to Division 6 of the Food and Agricultural
19 Code, to read:

20
21 CHAPTER 10. PESTICIDE BROKERS
22

23 12400. It is unlawful for any person, other than the
24 registrant or pest control dealer licensed pursuant to
25 Section 12107, to sell or distribute into or within this state
26 any pesticide products that have been registered by the
27 director and that are labeled for agricultural use, unless
28 the person is licensed by the director as a pesticide
29 broker. This chapter does not apply to persons who
30 operate as sellers or distributors of pesticides that are
31 labeled only for nonagricultural uses.

32 12401. (a) An application for a pesticide broker
33 license, or renewal of a license, shall be in the form
34 prescribed by the director. Each application for a license,
35 or license renewal, shall state the name and address of the
36 applicant, and any other information specified on the
37 application or required by the director, and be
38 accompanied by a fee of one hundred dollars (\$100).

39 (b) An additional license fee, or license renewal fee, of
40 fifty dollars (\$50) shall be paid for each branch location

1 of the applicant that sells or distributes into or within the
2 state any pesticide products that are labeled for
3 agricultural use.

4 12402. The director shall issue to each applicant that
5 satisfies the requirements of this chapter a pesticide
6 broker license that shall be valid for one year from the
7 date of issuance, unless the license is revoked or
8 suspended in the interim.

9 12403. All licenses issued pursuant to this chapter may
10 be renewed annually upon application to the director.

11 12404. A penalty of twenty-five dollars (\$25) shall be
12 added to any license renewal fee that is not paid by the
13 date of expiration of a previously issued license or license
14 renewal.

15 12405. Each licensed pesticide broker that changes
16 the address of its place of business, or that of a branch
17 location, shall immediately provide the director written
18 notification of the change.

19 12406. (a) Each licensed pesticide broker, or person
20 who is required to be licensed as a pesticide broker
21 pursuant to Section 12400, shall maintain at its principal
22 place of business the records of its purchases and sales and
23 distributions of pesticides into or within this state,
24 including those of its branch locations, for four years.
25 These records shall include copies of invoices showing
26 payment of the mill assessment. The records shall be
27 available for audit by the director or county agricultural
28 commissioner.

29 (b) Each licensed pesticide broker, or person who is
30 required to be licensed as a pesticide broker pursuant to
31 Section 12400, shall report quarterly to the director the
32 total dollars of sales and total pounds or gallons sold into
33 or within this state of each pesticide labeled for
34 agricultural use, for all sales subject to Sections 12841 and
35 12841.1. The quarterly report shall be in the form
36 prescribed by the director and shall include information
37 from the broker's licensed branch locations, if any, and
38 any other information specified on the form or required
39 by the director. The report shall include a certification,
40 under penalty of perjury, that the information contained



1 in the report is true and correct. The report shall
2 accompany payment of assessments required by Sections
3 12841 and 12841.1.

4 12407. It is unlawful for any person required to be
5 licensed as a pesticide broker pursuant to this chapter to
6 make any false or fraudulent statements or misrepresent
7 or fail to disclose any material fact in making application
8 for a license or renewal of a license or in any reports
9 submitted to the director, or to make any false or
10 misleading statements concerning any products specified
11 in Section 12847 that the person sells or distributes.

12 12408. The director, after a hearing, may refuse,
13 revoke, or suspend a pesticide broker license for any
14 violation of this division or Division 7 (commencing with
15 Section 12500) or any regulations adopted pursuant to
16 this division.

17 SEC. 17. Section 12784 of the Food and Agricultural
18 Code is amended to read:

19 12784. Any money that is received by the director
20 pursuant to this chapter shall be paid into the State
21 Treasury to the credit of the Department of Pesticide
22 ~~Regulation Fund for use by the department in~~
23 ~~administering this division and Division 6 (commencing~~
24 ~~with Section 11401).~~ *Regulation Fund. Registration fees*
25 *and assessments received pursuant to this chapter shall be*
26 *expended only for the administration and enforcement of*
27 *Chapter 2 (commencing with Section 12751), Chapter 3*
28 *(commencing with Section 14001), and Chapter 3.5*
29 *(commencing with Section 14101) of Division 7.*

30 SEC. 18. Section 12841 of the Food and Agricultural
31 Code is repealed.

32 SEC. 19. Section 12841 is added to the Food and
33 Agricultural Code, to read:

34 12841. (a) It is unlawful for any person to sell for use
35 in this state any pesticide products that have been
36 registered by the director for which the mill assessment
37 established by this article, and the regulations adopted
38 pursuant to it, is not paid at the times specified in Section
39 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of any registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

(2) For purposes of this section, “active ingredient” means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) In those cases where the registrant did not first sell the pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker, licensed pest control dealer, or other person who first sold the pesticide for use in this state.

1 (2) No person is required to pay an assessment on
2 registered products that are labeled only for use in
3 further manufacturing or formulating of pesticides.

4 (e) It has been and continues to be the intent of the
5 Legislature that this division requires the department to
6 register all pesticides prior to their sale for use in this state
7 and, except as otherwise provided by law, requires the
8 department to regulate and control the use of pesticides
9 in accordance with this division. Except as provided in
10 Section 12841.1, the department shall continue to collect
11 the assessment as provided in this article at the same rate
12 on all registered agricultural and registered
13 nonagricultural pesticides.

14 ~~(f) (1) Between January 1, 1998, and January 1, 2003,~~
15 ~~the director shall set the mill assessment rate, by the~~
16 ~~adoption of an emergency regulation, at an amount, not~~
17 ~~less than nine mills (\$0.009) and not to exceed 17.5 mills~~
18 ~~(\$0.0175) per dollar of sales for all sales of pesticides for~~
19 ~~use in this state that is projected to equal, when taken~~
20 ~~together with other expected revenues and allowing for~~
21 ~~the maintenance of a prudent reserve, the appropriations~~
22 ~~for department activities, including payments to counties~~
23 ~~pursuant to this section. The director shall annually adjust~~
24 ~~the mill assessment rate, as necessary, to conform with~~
25 ~~approved appropriation levels. If the director determines~~
26 ~~that the revenue collected during the preceding calendar~~
27 ~~year was greater than, or less than, the amount necessary,~~
28 ~~the director shall further adjust the collection rate to~~
29 ~~conform to approved appropriation levels.~~

30 ~~(A) For the purpose of this subdivision, “prudent~~
31 ~~reserve” means that the director shall adjust the mill~~
32 ~~assessment rate so that the excess balance in the~~
33 ~~Department of Pesticide Regulation Fund shall be~~
34 ~~projected to be approximately two million five hundred~~
35 ~~thousand dollars (\$2,500,000) by the end of the 2001-02~~
36 ~~fiscal year.~~

37 ~~(B) Any emergency regulations adopted pursuant to~~
38 ~~this subdivision shall be adopted by the director in~~
39 ~~accordance with Chapter 3.5 (commencing with Section~~
40 ~~11340) of Part 1 of Division 3 of Title 2 of the Government~~

~~Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the director pursuant to this subdivision are not subject to review by the Office of Administrative Law and shall remain in effect until revised by the director. The director shall make available to the public, at least 30 days prior to the adoption of an emergency regulation establishing a new mill assessment rate, the information upon which the director has calculated the new rate.~~

~~(2) Commencing January 1, 2003, the mill assessment shall be paid at a rate of nine mills (\$0.009) per dollar of sales for all sales of pesticides for use in this state.~~

~~(f) (1) Except as provided in paragraph (2), the mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:~~

~~(A) From January 1, 1998, to March 31, 1999, inclusive, the rate shall be 15.15 mills (\$0.01515) plus any additional assessment authorized by Section 12841.1.~~

~~(B) From April 1, 1999, to January 1, 2003, inclusive, the rate shall be 17.5 mills (\$0.0175) plus any additional assessment authorized by Section 12841.1.~~

~~(C) Effective January 1, 2003, and thereafter, the rate shall be nine mills (\$0.009).~~

~~(2) In order to avoid the accumulation of unneeded revenues, the director shall, by the adoption of an emergency regulation pursuant to subdivision (h), set the mill assessment rate lower than the rate established in subparagraphs (A) and (B) of paragraph (1) if the director determines that program needs are adequately met and that revenues collected would result in a prudent reserve in the Department of Pesticide Regulation Fund by the end of the 2001–02 fiscal year greater than two million five hundred thousand dollars (\$2,500,000). In no case shall the lower mill rate result in revenues that are less than the revenues that the rate established in~~

1 *subparagraphs (A) and (B) of paragraph (1) would*
2 *generate if each mill was valued at one million four*
3 *hundred eighty-two thousand dollars (\$1,482,000).*

4 (g) The revenue collected from the mill assessment
5 shall be deposited in the Department of Pesticide
6 Regulation Fund, except as specified in Section 12841.1,
7 and distributed as follows:

8 (1) Notwithstanding Sections 2282 and 12784, the
9 director shall pay, in accordance with the criteria set forth
10 in Section 12844, the following amounts to the counties as
11 reimbursement for costs incurred by the counties in the
12 administration and enforcement of Division 6
13 (commencing with Section 11401), this chapter, Chapter
14 3 (commencing with Section 14001), Chapter 3.4
15 (commencing with Section 14090), and Chapter 3.5
16 (commencing with Section 14101):

17 (A) From January 1, 1998, to ~~June 30~~ *March 31*, 1998,
18 inclusive, five-eighths of the money received during that
19 period pursuant to this section.

20 (B) Beginning ~~July 1~~ *April 1*, 1998, and thereafter, an
21 amount equal to the revenue derived from 6 mills
22 (\$0.006) per dollar of sales for all pesticide sales for use in
23 this state.

24 (2) All funds not otherwise distributed pursuant to this
25 subdivision shall remain in the Department of Pesticide
26 Regulation Fund and shall be available for expenditure,
27 upon appropriation, to support the department's
28 operations.

29 (h) *Any change to the mill assessment rate established*
30 *pursuant to subparagraphs (A) and (B) of paragraph (1)*
31 *of subdivision (f) shall be made by the adoption of an*
32 *emergency regulation and shall be determined by the*
33 *Office of Administrative Law as necessary for the*
34 *immediate preservation of the public peace, health,*
35 *safety, and general welfare. Thereafter, the regulations*
36 *shall be adopted pursuant to Chapter 3.5 (commencing*
37 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
38 *Government Code and shall remain in effect for no more*
39 *than four consecutive quarters. The director shall make*
40 *available to the public, at least 60 days prior to the*

1 *adoption of an emergency regulation establishing a new*
2 *rate, the information upon which the director has*
3 *calculated the new rate.*

4 SEC. 20. Section 12841.1 of the Food and Agricultural
5 Code is repealed.

6 SEC. 21. Section 12841.1 is added to the Food and
7 Agricultural Code, to read:

8 12841.1. (a) Between January 1, 1998, and January 1,
9 2003, the director may collect an assessment, in addition
10 to the mill assessment collected pursuant to Section
11 12841, for all pesticide sales for use in this state except for
12 sales for use in this state of those nonagricultural
13 pesticides labeled only for home, industrial, or
14 institutional use. The director may only collect up to an
15 additional three-fourths mill (\$0.00075) per dollar of sales,
16 as part of the rate established ~~by the emergency~~
17 ~~regulation adopted~~ pursuant to Section 12841, if
18 necessary to fund, or augment the funding for, an
19 appropriation to the Department of Food and
20 Agriculture to provide pesticide consultation to the
21 department pursuant to Section 11454.2. The necessity of
22 this additional assessment shall be determined by the
23 Secretary of Food and Agriculture, in consultation with
24 the director, on an annual basis after consideration of all
25 other revenue sources, including any reserves, which
26 may be appropriated for this purpose. The secretary's
27 written determination, including a request for a specified
28 additional assessment and the basis for that request, shall
29 be provided to the department in a time and manner
30 prescribed by the director to fulfill the requirements of
31 Section 12841, and shall be made available to the public
32 pursuant to the requirements of subparagraph (B) of
33 paragraph (1) of subdivision (f) of Section 12841.

34 (b) The revenue collected pursuant to this section
35 shall be deposited monthly in a separate account in the
36 Department of Food and Agriculture Fund. These
37 revenues shall be expended only by the Department of
38 Food and Agriculture, upon appropriation, to provide
39 consultation to the department pursuant to Section
40 11454.2. No funds may be expended prior to the execution

1 of a memorandum of understanding pursuant to
2 subdivision (b) of Section 11454.2. The consultation
3 activities to be undertaken by the Department of Food
4 and Agriculture are limited solely to those specifically
5 authorized in the memorandum of understanding
6 executed pursuant to Section 11454.2. These funds may
7 not be expended for scientific risk assessment activities.
8 The department may be reimbursed from the
9 Department of Food and Agriculture Fund for revenue
10 collection activities.

11 (c) This section shall remain in effect only until
12 January 1, 2003, and as of that date is repealed, unless a
13 later enacted statute, that is enacted before January 1,
14 2003, deletes or extends that date.

15 SEC. 22. Section 12842 of the Food and Agricultural
16 Code is repealed.

17 SEC. 23. Section 12842 is added to the Food and
18 Agricultural Code, to read:

19 12842. Every person who sells for use in this state any
20 pesticide products that have been registered by the
21 director shall maintain in this state, or with the director's
22 permission at another location, an accurate record of all
23 transactions subject to assessment for four years. The
24 records are subject to audit by the director and shall
25 clearly demonstrate proof of payment of all applicable
26 assessments for each registered pesticide product sold for
27 use in this state.

28 SEC. 24. Section 12843 of the Food and Agricultural
29 Code is amended to read:

30 12843. The payments required by this article,
31 together with a return in a form prescribed by the
32 director, shall be made quarterly one calendar month
33 after March 31, June 30, September 30, and December 31
34 of each year. For any delinquency in making a return, or
35 any deficiency in payment, the director shall add to the
36 delinquent payment a penalty of 10 percent of the
37 amount that is due.

38 SEC. 25. Section 12844 of the Food and Agricultural
39 Code is repealed.

1 SEC. 26. Section 12844 is added to the Food and
2 Agricultural Code, to read:

3 12844. The director and the county agricultural
4 commissioners shall jointly develop regulations
5 specifying the criteria to be used in allocating pesticide
6 mill assessment funds to the counties based upon each
7 county's pest control activities, costs, workload, and
8 performance. After providing public notice, the director
9 shall adopt those regulations. The criteria to be used in
10 allocating the funds to counties shall include, but not be
11 limited to, all of the following:

12 (a) The effectiveness of the pesticide use enforcement
13 program in each county.

14 (b) The number, comprehensiveness, and
15 effectiveness of pest control inspections performed in
16 each county.

17 (c) The number of licensed pest control dealers
18 located in each county. The number of licensed
19 agricultural pest control advisers, pest control businesses,
20 and pest control aircraft pilots registered in each county.
21 The number of structural pest control operators
22 providing notice of work to each county.

23 (d) The work hours expended in each county by
24 county personnel who are licensed, or working under the
25 supervision of county personnel licensed, in pesticide
26 regulation or environmental monitoring and
27 investigation.

28 (e) The total amount of dollars expended by each
29 county relating to pesticide regulatory activities.

30 (f) The total number of private applicator certificate
31 holders in each county.

32 (g) The total pounds of pesticides reported used in
33 each county.

34 SEC. 27. Section 12845 of the Food and Agricultural
35 Code is amended to read:

36 12845. (a) The director may adopt regulations that
37 require persons subject to this article to provide
38 information determined by the director to be necessary
39 to enable the director to perform the audit authorized



1 pursuant to Section 12842 and to carry out other powers
2 or duties under this division.

3 (b) The regulations adopted pursuant to this section
4 may include, but are not limited to, a requirement that a
5 person subject to this article provide the director with
6 information on the quarterly dollar sales of each
7 registered pesticide sold for use in this state and the
8 quarterly volume of each registered pesticide sold for use
9 in this state.

10 SEC. 28. Section 12846 of the Food and Agricultural
11 Code is amended to read:

12 12846. The Food Safety Account is hereby created in
13 the Department of Pesticide Regulation Fund. The funds
14 in the account shall be used, upon appropriation, for the
15 purposes of Sections 12535, 12797, 12798, 12979, 13134 and
16 13135 of this code and Section 110495 of the Health and
17 Safety Code.

18 SEC. 29. Section 12847 of the Food and Agricultural
19 Code is repealed.

20 SEC. 30. Section 12847 is added to the Food and
21 Agricultural Code, to read:

22 12847. Sales invoices for pesticides first sold into or
23 within this state by a registrant, pesticide broker, pest
24 control dealer, or other person subject to this article shall
25 show that the assessment specified in Sections 12841 and
26 12841.1 will be paid by the registrant, broker, dealer, or
27 person, respectively. All other sales invoices for pesticides
28 sold into or within this state, except retail sales of those
29 nonagricultural pesticides labeled only for home,
30 industrial, or institutional use shall show as a comment on
31 the invoice that the assessment will be paid, and may
32 show an amount or rate that represents the assessment.
33 However, only the person who actually will pay the
34 assessment may show the amount or rate of the
35 assessment as a line item on the sales invoice.

36 SEC. 31. Article 4.6 (commencing with Section
37 12848) of Chapter 2 of Division 7 of the Food and
38 Agricultural Code is repealed.

39 SEC. 32. Section 12931 of the Food and Agricultural
40 Code is amended to read:

1 12931. The director may take samples of pesticides,
2 make analyses or examinations of them, and make such
3 investigations as are necessary for the full enforcement of
4 this chapter.

5 SEC. 33. Section 12932 of the Food and Agricultural
6 Code is repealed.

7 SEC. 34. Section 12971.5 of the Food and Agricultural
8 Code is repealed.

9 SEC. 35. Section 12991 of the Food and Agricultural
10 Code is amended to read:

11 12991. It is unlawful for any person, individually or
12 through another, in connection with any substance or
13 mixture of substances included within the scope of this
14 chapter, to do any of the following:

15 (a) Make any material or substantial
16 misrepresentation.

17 (b) Make any false promises of a character likely to
18 influence, induce, or deceive.

19 (c) Engage in illegitimate business or dishonest
20 dealing.

21 (d) Cause to be published or distributed any false or
22 misleading literature, or cause to be displayed any false or
23 misleading advertisement.

24 (e) Use, store, transport, handle, or dispose of any
25 pesticide, or of any container that holds or has held a
26 pesticide, except in compliance with regulations of the
27 director.

28 (f) Purchase for use in this state a pesticide that is
29 labeled for agricultural use except from a person licensed
30 as a pest control dealer pursuant to Section 12107. Persons
31 using those products shall retain receipts of the purchase
32 of the products for four years and make the receipts
33 available for inspection upon request of the director or
34 the commissioner.

35 SEC. 36. Section 12999.4 of the Food and Agricultural
36 Code is amended to read:

37 12999.4. (a) In lieu of civil prosecution by the
38 director, the director may levy a civil penalty against a
39 person violating Sections 12115, 12116, 12671, 12992,
40 12993, Chapter 10 (commencing with Section 12400) of



1 Division 6, or Article 4.5 (commencing with Section
2 12841) of not more than five thousand dollars (\$5,000) for
3 each violation.

4 (b) Before a civil penalty is levied, the person charged
5 with the violation shall receive notice of the nature of the
6 violation and shall be given an opportunity to be heard,
7 including the right to review the director's evidence and
8 a right to present evidence on his or her own behalf.

9 (c) Review of the decision of the director may be
10 sought by the person against whom the penalty was
11 levied within 30 days of the date of the decision pursuant
12 to Section 1094.5 of the Code of Civil Procedure.

13 (d) After the exhaustion of the review procedure
14 provided in this section, the director, or his or her
15 representative, may file a certified copy of a final decision
16 of the director that directs the payment of a civil penalty
17 and, if applicable, any order that denies a petition for a
18 writ of administrative mandamus, with the clerk of the
19 superior court of any county. Judgment shall be entered
20 immediately by the clerk in conformity with the decision
21 or order. No fees shall be charged by the clerk of the
22 superior court for the performance of any official service
23 required in connection with the entry of judgment
24 pursuant to this section.

25 (e) Any money recovered under this section shall be
26 paid into the Department of Pesticide Regulation Fund
27 for use by the department, upon appropriation, in
28 administering this division and Division 6 (commencing
29 with Section 11401).

30 SEC. 37. Section 14152 of the Food and Agricultural
31 Code is amended to read:

32 14152. An application for a qualified applicator
33 certificate shall be in a form prescribed by the director.
34 Each application shall state the name and address of the
35 applicant specified on the application and any other
36 information required by the director. The application
37 shall be accompanied by a fee of twenty-five dollars (\$25).
38 All certificates issued under this chapter shall expire on
39 December 31 of the year for which they are issued.
40 Certificates may be renewed annually by the date of

1 expiration by application in the form prescribed by the
2 director and upon payment of fifteen dollars (\$15). A
3 penalty of ten dollars (\$10) shall be assessed against any
4 applicant who applies for renewal after the expiration
5 date. These funds shall be deposited in the State Treasury
6 to the credit of the Department of Pesticide Regulation
7 Fund.

8 SEC. 38. Notwithstanding Section 17610 of the
9 Government Code, if the Commission on State Mandates
10 determines that this act contains costs mandated by the
11 state, reimbursement to local agencies and school
12 districts for those costs shall be made pursuant to Part 7
13 (commencing with Section 17500) of Division 4 of Title
14 2 of the Government Code. If the statewide cost of the
15 claim for reimbursement does not exceed one million
16 dollars (\$1,000,000), reimbursement shall be made from
17 the State Mandates Claims Fund.

18 Notwithstanding Section 17580 of the Government
19 Code, unless otherwise specified, the provisions of this act
20 shall become operative on the same date that the act
21 takes effect pursuant to the California Constitution.

